Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Request of	)	
	)	
FREEMAN ENGINEERING ASSOCIATES, INC.	)	ET Docket No. 92-100
	)	PP-79
	)	
For Award of a Pioneer's Preference in the 930-931 MHz Band to Provide Two-Way Data and Advanced Paging Services	)	

To: The Commission

REPLY

Freeman Engineering Associates, Inc. ("Freeman"), by its attorneys, hereby replies to the comments in opposition to the award of a pioneer's preference to it filed by PageMart, Inc. ("PageMart"), Mobile Telecommunication Technologies Corporation ("Mtel"), Dial Page, L.P. ("Dial Page") and Paging Network, Inc. ("PageNet"). In support hereof, the following is shown:

1. Freeman's "Request for Pioneer's Preference" ("Request") clearly demonstrates that Freeman is entitled as a matter of law to the award of a pioneer's preference. The opposing comments do not alter that basic and fundamental fact. The opposing comments are quite truncated, ignore the specifics of Freeman's Request, and tend to evaluate Freeman's Request under self-serving criteria which revolve around the pioneer's preference requests filed by the commentors themselves.

I. RESPONSE TO Mtel'S OPPOSING COMMENTS AND REPLY COMMENTS

2. Mtel has asserted that Freeman has now shown demand for its service. Apparently, Mtel directs this claim to Freeman's proposal for digital, wide area voice service, since Mtel does not contest the need for alpha-numeric and electronic messaging and electronic mail service, which are the focus of its own proposed "Nationwide Wireless Network Service."

3. However, substantial need for tone-voice exists. Freeman provides engineering services to Radiofone, Inc. (Radiofone), which operates a tone-voice system in New Orleans with approximately 15 channels deployed to tone-voice service. Despite the fact that Radiofone has done very little advertising relating to voice over the past 20 years, the demand for voice service remains strong. More importantly, the most frequently requested service is <u>wide area</u> voice service. Customers would like to have the availability of tone-voice over a wider area, and Radiofone has accommodated that on a limited basis. However, true wide area voice service is prohibitively expensive using current technology. Under Freeman's proposed scheme, wider bandwidth can be used, allowing more users on the system, and thus spreading the cost over many more customers for the infrastructure. This makes

feasible the provision of tone-voice service to a much larger segment of the public, while at the same time giving the increased area coverage which the customers have demanded. At the same time, this infrastructure can support conventional digital readout, tone-only, alpha-numeric and messaging services in an efficient, integrated manner.

4. Mtel has further asserted that Freeman's proposal is not innovative. However, this integrated, wide area service is presently unavailable to the public, and Freeman's proposal has advanced the state-of-the-art by proposing a combined, spectrally efficient operation to allow this new service to be made available. Also, the new service will expand communications capabilities for the deaf.[1]

5. At Page 5, Mtel misinterprets Freeman's intent in use of the term "flexibility." Freeman recognizes that there will be others vying for the spectrum if it is allocated as proposed in this proceeding. It seeks its pioneer's preference to provide the innovative service described in its proposal. However, Freeman recognizes that others may see other uses, and industries and/or consumers in various parts of the country may develop communications needs, different from those encountered in the geographical area in which Freeman has requested its pioneer's preference. Therefore,

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[1]See Freeman's Request for Pioneer's Preference at p. 7.

it proposes a flexible approach which would allow the Commission to make the wide-band allocation, but not restrict it to a specific methodology proposed by Freeman. Instead, this approach would allow the individual operator to integrate various services as they see fit for their particular market. Some particular markets may have more highly developed needs or preferences for data transmission than voice, depending on the industry, and even the "culture" of the particular area. In the southern United States, people generally prefer to communicate on a more personal level, hence the higher demand for tone-voice service. In other sections of the country, this personal contact is not as important. And in areas such as the Silicon Valley, a need for advanced data services may be dictated by the sophisticated nature of the computer industry prevalent there.

6. Mtel ignores Freeman's technical feasibility showing, claiming that Freeman simply states that the "technology is within the knowledge of the industry." However, in the paragraph following this statement in its preference request, Freeman details the various components needed to provide the service, and states how they are available. Thus, Mtel's claim has no merit.

7. Mtel's Reply Comments, at Page 7, Paragraph D, basically attack any wide-band allocation. Mtel states that

all the frequencies should be allocated for narrow-band. This ignores the efficiencies to be gained by integrating several services into one operation. In this regard, while Mtel claims that the proposed services can be more efficiently provided by segregating them on four narrow band channels, this argument is specious. By using digital compression techniques, Freeman's proposal would allow the provision of more advanced services, to a far greater number of subscribers, than would be allowed by four narrow band operations. In essence, the whole is greater than the sum of the parts.

8. Mtel also claims that its proposal will allow a greater number of competing service providers in a given area. However, Freeman's proposal would allow the more efficient provision of advanced and innovative services to a greater number of subscribers, with more than adequate competition being accommodated.

II. RESPONSE TO PAGENET OPPOSITION

9. Likewise without merit is the Opposition of PageNet. PageNet seemingly fails to comprehend that Freeman proposes to operate a wide-band voice service. They state there is nothing new or "novel" in Freeman's proposal. However, as discussed above, this is not the case, as current rules do not

allow for this type of integrated, wide-band paging service to be offered, featuring wide-area voice service and expanded services for the deaf. PageNet is correct in stating that Freeman would use digitized voice and compression techniques in interweaving the data, numeric and tone-only messages to improve efficiency. However, it fails to recognize the efficiency inherent in the broadband technique described. It rightfully recognizes that Freeman's proposed service will conserve spectrum by using multiple receivers to allow many portable units to use the same frequency at the same time, over a large geographical area.

10. PageNet erroneously claims (at p. 22) that Freeman's technical feasibility analysis consists solely of the single sentence which says, "Freeman believes that this proposal is technically feasible using some current technology, and some technology yet to be applied, but technology that is within the knowledge of the industry". PageNet also argues that "Freeman has made no demonstration of any spectral efficiencies". However, PageNet contradicts its own statements at Page 21 and Page 23, by acknowledging Freeman's innovation in spectrum efficiency. And PageNet fails to acknowledge the fact that Freeman further describes in detail the technical feasibility of its proposal in Paragraph 18 of its preference request. PageNet thereby leaves the Commission with the idea that the introductory sentence at Paragraph 17

is the only description of technical feasibility in the request. Freeman has further shown an increase in speed of communications by increasing the throughput of the channel, using wide-band techniques, and has stated that the proposal makes feasible the wide-area distribution of tone-voice because of cost efficiency. See Freeman preference request at pp. 5-6. PageNet erroneously represents the contrary in its Opposition, at p. 23.

11. Finally, PageNet claims that Freeman "has proposed no rules" for its proposal, and that this was required, citing the Pioneer's Preference Order, 6 FCC Rcd 3488, 3492 (1991). However, this Order only required that a pioneer's preference request be accompanied by "a rulemaking petition." Id. at para. 37. This requirement was modified by the Commission's Memorandum, Opinion and Order, Gen. Dkt. 90-217, Mimeo No. 38343, which provides that a rulemaking petition is unnecessary when a preference request is to be considered in the context of an existing proceeding. Id. at para. 19. Freeman's request provides the Commission with adequate information about the proposed technology that it can be incorporated into the present proceeding captioned above.

III. RESPONSE TO DIAL PAGE, L.P. COMMENTS

12. At Page 5, Dial Page claims that Freeman's proposal "does not specify the number of licensees its proposal would accommodate". Freeman has left this up to the Commission, as this is a policy matter. In any event, the spectrum would accommodate two or three wide-band allocations of this nature, leaving some spectrum for the Commission to allocate to other technologies that have no other frequencies already allocated. The Commission may in its wisdom modify the bandwidth in order to accomplish other goals it may set for itself. However, the basic idea of wide band allocations should be preserved in the Commission's rules.

13. Dial Page also claims that Freeman's proposal would require "excessive amounts of spectrum." This ignores the overall spectral efficiency involved in Freeman's proposal, as discussed above.

IV. RESPONSE TO PAGEMART COMMENTS

14. PageMart, at Page 8 of its Comments, says that Freeman's proposal is little more than a proposal to market existing paging service to certain niche markets. PageMart fails to recognize that this is a new and innovative technique for utilizing the paging spectrum, which will provide new

services not presently available in most markets, such as widespread availability of tone-voice, and response services for the deaf. And by integrating all one-way and two-way paging/data formats into a single system, the new technology will be more cost effective for the operator, which savings can be passed on to the public.

WHEREFORE, Freeman requests that it be awarded a pioneer's preference.

Respectfully submitted

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee in the law offices of Blooston, Mordkofsky, Jackson & Dickens, and that on this 29th day of June, 1992, I mailed by first class United States mail, postage prepaid, a copy of the foregoing "**REPLY**" to the following:

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